

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Virgil W. Kleve, Appellant, v. Sioux City Board of Review, Appellee.	ORDER Docket No. 13-107-0163 Parcel No. 8947-26-109-004 Docket No. 13-107-0164 Parcel No. 8947-27-231-014 Docket No. 13-107-0165 Parcel No. 8947-26-102-001 Docket No. 13-107-0166 Parcel No. 8947-27-228-002 Docket No. 13-107-0167 Parcel No. 8947-26-158-018
---	--

On December 27, 2013, the above-captioned appeals came on for consideration before the Property Assessment Appeal Board. The appeals were conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant Virgil K. Kleve was self-represented and requested a written consideration. Jack Faith is counsel for the Board of Review. The Appeal Board, having reviewed the record and being fully advised, finds:

Findings of Fact

Virgil W. Kleve is the owner of five residentially classified vacant lots located in Sioux City, Iowa. Kleve protested to the Sioux City Board of Review claiming each property was assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2). He also filled out the error claim on the form, but the nature of the claim is that the properties are over assessed. The following chart identifies each parcel and the values Kleve claimed were correct.

Docket	Address	Site Size (Acres)	2013 Assessed Value	2013 BoR Value	Kleve's Value
13-107-0163	1104 Rustin St	0.135	\$4,600	\$2,500	\$400
13-107-0164	1010 Pacific St	0.342	\$9,900	\$7,400	\$1,000
13-107-0165	3002 14th St	0.947	\$16,500	\$12,400	\$4,050
13-107-0166	1125 1/2 Irene St	0.856	\$2,400	\$2,400	\$1,100
13-107-0167	3011 07th St	0.305	\$7,000	\$5,500	\$1,100

With the exception of 1125 ½ Irene Street, the Board of Review granted Kleve's claims, in part, and reduced the values of the vacant sites.

Kleve then appealed each parcel to this Board re-asserting his claim.

Kleve asserts all five subject parcels are "some of the least marketable" in Sioux City and have not been improved or used for any purpose over the last "thirty-some" years that he has owned them. He explained that he purchased all five parcels between 1977 and 1981. Since that time, eight different realty companies have continuously listed all five parcels for sale. Kleve states that each company has subsequently labeled the sites as "unmarketable."

The Board of Review submitted an affidavit from the City Assessor Alan Jordan for each parcel appealed. (Exhibits C). Each affidavit offers the same explanation regarding the process used to complete the analysis of vacant land, as well as, the specific formula relied on for each individual parcel.

Jordan explained the Assessor's Office typically first considers vacant land sales to value properties like Kleve's; however, there was only one sale and it was not considered comparable to the subject parcels. His Office then completed an analysis of improved sales to determine land values using the residual method, also known as the abstraction method in the Iowa Department of Revenue REAL PROPERTY APPRAISAL MANUAL (2008). The residual method takes the total sales price of an improved property and reduces it by the estimated value of the improvements. The residual (remainder) of the sales price is then allocated to the land value. His first search criteria were

improved sales in the last three years located around the subject's East Terrace neighborhood. Because this search resulted in only eight improved arm's-length sales, the sales period was extended to five years, resulting in sixteen improved sales that were subsequently used for analysis. The aggregated trended sales prices resulted in a land residual of \$263,451. This residual, divided by the aggregate 233,142 square feet of land, resulted in an indicated value for vacant land of \$1.13 per square foot.

The Assessor's Office then took the subject property's site size and multiplied it by the indicated residual to determine a value for each parcel. It then deducted obsolescence as appropriate for each parcel to reflect concerns with topography or location, which resulted in the 2013 assessed value. The Assessor used this formula, referred in this Order as the residual valuation formula, to value all of Kleve's vacant properties.

Docket 13-107-0163 – 1104 Rustin Street

Kleve explained he purchased 1104 Rustin Street in 1977 for \$200. He notes it is a single lot that measures 45 feet wide and has a steep bank up from the street. Further, he notes Rustin Street is a deeply rutted, unimproved dirt road. He believes the correct fair market value for this parcel is \$400.

Applying the residual valuation formula to 1104 Rustin Street results in a value of \$5000 rounded, which includes a 25% reduction for inferior topography. We note this value differs from Exhibit C, which concludes a value of \$4600 rounded.

Docket 13-107-0164 – 1010 Pacific Street

Kleve explained he purchased 1010 Pacific Street in 1981 and paid \$350 for "all the lots." The single parcel includes Lots E through H. According to Kleve, these "sub lots" are 25 feet wide with an alley easement bisecting them. The total site size is 0.342 acres.

Kleve further notes between 1990 and 2004 he attempted to sell the property three times to two different individuals, one of which owned adjoining property to the subject parcel. Most recently, Kleve contacted both parties with an offer to sell the parcel for \$1000. Essentially, because Kleve has

been unable to sell the property to either of these buyers for a \$1000, he asserts its assessment should be no more than \$1000.

The residual valuation formula results in a value of \$10,800 rounded, including a 20% reduction for inferior topography and a 20% reduction for inferior location. We note this is again different than Exhibit C, which concludes a value of \$9900 rounded.

Docket 13-107-0165 – 3002 14th Street

Kleve purchased this parcel in 1978. The site is 0.947 acres. Kleve claims the site sits below the two frontage streets, which are unpaved, dirt surfaces. Because of the site's orientation, he claims it is saturated after heavy rains. Further, the parcel is tree and bush covered and remains unimproved. Kleve asserts a "realistic value" for the total parcel is \$4050.

Because this is a larger site, the Board of Review considered the concept of diminishing returns, which recognizes a decreased unit value after a specified threshold. Jordan's affidavit explains he valued the first 20,000 square feet of the subject site at \$1.13 per-square-foot with the remaining 21,275 square feet valued as excess land at \$0.20 per-square-foot. There is no explanation as to why the value decreases after 20,000 square feet or how the excess land value per-square-foot was determined.

The residual valuation formula, including a reduction of 33% for topography, results in a value of \$18,000. Again, Exhibit C incorrectly concludes a value of \$16,500 rounded.

Docket 13-107-0166 – 1125 ½ Irene Street

Kleve explains he purchased this site in 1977 for \$300. He claims the site has no street access; there are no water or sewage lines immediately available to the site; and the topography affects the value of the site. Kleve believes the correct value of this site is \$1100.

Like 3002 14th Street, this is a larger site and the Assessor's Office applied the residual valuation formula, including a lower value per-square-foot for the portion of the site in excess of

20,000 square feet. In addition to the lower value per-square-foot applied to a portion of this site, a 90% reduction was applied for inferior topography and results in a value conclusion of \$2600 rounded. We note Exhibit C again incorrectly concluded a value of \$2400.

Docket 13-107-0167 – 3011 07th Street

Kleve explains he purchased this site in 1977 for \$350. He notes the site is “odd shaped” and drops off steeply just past the frontage. He also asserts the site is not even suitable for something as limited as gardening because of the topography. Further, he claims sewage would be difficult to extend to the site and would require trenching and easement access. Therefore, in his opinion, building on this site would be difficult and expensive. He believes the lot should have a 2013 assessment of \$1100.

Applying the residual valuation formula for this parcel results in a value of \$6000 rounded, which includes a 50% reduction for inferior topography and a 20% reduction for inferior location. We note Exhibit C incorrectly concludes a value of \$7000 rounded.

With the exception of 3011 07th Street (Docket 13-107-0167), the assigned 2013 assessed values for the subject parcels are less than the actual calculations based on the formula provided by the Assessor’s Office. The errors are in Kleve’s favor. We note the property located at 3011 07th Street should have a 2013 assessed value of \$6000 based on the assessor’s formula, not \$7000 as originally assigned by the Assessor’s Office. However, the Board of Review reduced the 2013 assessed value to \$5500, which is less than that indicated by the Assessor’s formula.

Conclusion of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds

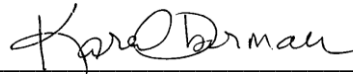
presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin Cnty. Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. § 441.21(1)(b). If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

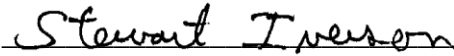
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). In each appeal, Kleve explained that he believed the correct value should not be greater than the last list price or declined offer, which is insufficient evidence for a claim of over-assessment. Ultimately, he did not provide sufficient evidence of the property's fair market value, such as an appraisal or sales of similar properties as of January 1, 2013. Thus, he failed to show his properties are over-assessed.

THE APPEAL BOARD ORDERS the 2013 assessments of Virgil W. Kleve's properties located in Sioux City, set by the Sioux City Board of Review, are affirmed.

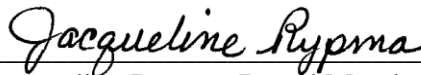
Dated this 4th day of February 2014.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:

Virgil W. Kleve
1288 192nd Street
Hubbard, NE 68741
APPELLANT

Jack Faith, Attorney
705 Douglas
Suite 270
Sioux City, Iowa 51105
ATTORNEY FOR APPELLEE